IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 13460 of 2005

Between:

Yerramsetty Nookaratnam, W/o.Appa rao,
R/o.D.No.13-13-11, B.C.Road, Gajuwaka, Visakhapatnam.

..... PETITIONER

AND

1 The Gajuwaka Municipality, Gajuwaka, Rep by its Commissioner, Gajuwaka, Visakhapatnam.
2 The State of A.P, Rep by its Director, Municipal Administration, Hyderabad.
3 The Joint Collector, Visakhapatnam, (Incharge of Gajuwaka Municipality).

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction preferably one in the nature of writ of mandamus declaring the action of the 1st respondent in attempting to demolish the structure of the petitioner in an extent of 96 Square Yards bearing Door No.9-193 in S.No.25/2 of Gajuwaka Municipal area which was constructed with a valid building approval order without passing any order in the appeal pending before the Joint Collector 3rd respondent is illegal, arbitrary, malafide, unjust and against the principles of natural justice and to consequently direct the respondent municipality not to demolish the said structure during the pendency of the appeal before the 3rd respondent joint collector and to pass such other order or orders.

Counsel for the Petitioner: MR.K.SARVA BHOUMA RAO

Counsel for the Respondents: MR.S.NAGESWARA REDDY

The Court, at the stage of admission, made the following :

ORAL ORDER

The petitioner filed the present writ petition seeking to declare the action of the 1st respondent in attempting to demolish the structure of the petitioner in an extent of 96 square yards bearing Door No.9-193 in S.No.25/2 of Gajuwaka Municipal area, as illegal and arbitrary.

Heard the learned counsel for the petitioner and the Standing Counsel for Municipal Corporation.

It is the contention of the learned counsel for the petitioner is that the petitioner is the absolute owner of the building bearing Door No.9-193 in S.No.25/2 of Gajuwaka Municipal area, having purchased the same under a registered sale deed dated 26-09-1980. Further, it is the contention of the learned counsel for the petitioner is that in the year 2001 the 1st respondent- officials tried to demolish the structures of the building on the ground that it was constructed unauthorizedly and that the petitioner filed a suit in O.S.No.246 of 2001 on the file of the Court of Junior Civil Judge, Gajuwaka and the same was decreed infavour of the petitioner. Later, in 2003 again the respondent-officials tried to demolish the building. Against the threat of demolition, the petitioner filed a writ petition being W.P.No.14392 of 2003 and the same was dismissed, on the ground that after the decree, a notice had been issued to the petitioner, which was considered and an order was passed finally ordering demolition on 11-07-03 and that order was not under challenge. Aggrieved by the said dismissal order, the petitioner preferred a Writ Appeal and the Writ Appeal was also dismissed.

Now, it is vehemently contended by the learned counsel for the petitioner that thereafter the petitioner filed an appeal before the 3rd respondent-Joint Collector, Visakhapatnam and the same is pending consideration.

Considering the above facts and circumstances, the writ petition is disposed of with a direction to the 3rd respondent-Joint Collector, Visakhapatnam to dispose of the appeal filed by the petitioner, according to law, within a period of eight (8)weeks from the date of receipt of a copy of this Order and further the respondents are directed not to demolish the structures of the petitioner in an Extent of 96 square

yards bearing D.No.25/2 of Gajuwak Municipal area, till the disposal of the appeal.

_____

ELIPE DHARMA RAO,J

23rd JUNE 2005

NOTE:

Operative portion

by wire at party's

cost.

(B/O)

*TSNR

To

1 The Commissioner,Gajuwaka Municipality, Gajuwaka, Visakhapatnam.
2 The Director, Municipal Administration, Govt. of A.P.Hyderabad.
3 The Joint Collector, Visakhapatnam, (Incharge of Gajuwaka Municipality).

4 Two C.D.Copies.